

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH, WILDLIFE AND PARKS

Call to Order: By **CHAIRMAN DANIEL FUCHS**, on January 16, 2001 at
3 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Daniel Fuchs, Chairman (R)
Rep. Joe Balyeat, Vice Chairman (R)
Rep. George Golie, Vice Chairman (D)
Rep. Debby Barrett (R)
Rep. Paul Clark (D)
Rep. Ronald Devlin (R)
Rep. Tom Facey (D)
Rep. Nancy Fritz (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Larry Jent (D)
Rep. Jeff Laszloffy (R)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Allen Rome (R)
Rep. Jim Shockley (R)
Rep. Donald Steinbeisser (R)
Rep. Bill Thomas (R)
Rep. Brett Tramelli (D)

Members Excused: None.

Members Absent: Rep. Keith Bales (R)

Staff Present: Linda Keim, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 258, HB 228, HB 264,
1/16/2001;

Executive Action: None

HEARING ON HB 258

Sponsor: REPRESENTATIVE STEVE VICK, HD 31, BELGRADE

Proponents: Gary Marbut, Montana Shooting Sports Association
and Western Montana Fish and Game Association
Clyde Byerly, Missouri River Shooters Association
Chris Smith, Fish, Wildlife and Parks

Opponents: James Weatherly, Foundation for North American
Wild Sheep and Safari Club of North America

Opening Statement by Sponsor:

{Tape : 1; Side : A;}

REPRESENTATIVE STEVE VICK, HD 31, BELGRADE, stated the purpose of the bill is to provide a permanent source of funding for shooting range development. It is estimated that there is a firearm in 90-95% of all Montana homes. People who own firearms should have the opportunity to practice shooting in order to be safe and proficient. Because shooting ranges are very expensive to build and to improve, they have tried to put the responsibility for funding on the hunters who use the shooting ranges. A similar Bill was passed last session, but it had a sunset on it, and HB 258 is to provide a permanent funding source.

Proponents' Testimony:

Gary Marbut, Montana Shooting Sports Association, and Western Montana Fish and Game Association said they feel having a place to practice is very important. He suggests using a private-public partnership for funding. It is difficult to use funds that come from the federal government because of strict compliance requirements. They have used in-state hunter licensing fees but that was a biennial appropriation; they hope now to get the successful range funding program into a permanent basis. One idea they used to generate new money was to take a small number of sheep and goat permits and some non-resident combination big game licenses and auction them in a silent auction. They got the full value of the licenses, reimbursed FWP for the licenses, and took the extra money to put in the shooting range funding program. Gary Marbut also submitted a letter from Brian Judy, Montana State Liaison for the National Rifle Association of America supporting HB 258 **EXHIBIT(fih12a01)**.

Clyde Byerly, Missouri River Shooters Association of Great Falls, said with the closure of public lands to recreational shooting, and difficulty finding private lands to shoot on, it is

imperative we find a means to purchase and develop land for training our youthful hunters and for recreational shooting. Local governments are not willing to be managers of shooting activities, it is the private clubs that bear the burden of financing shooting ranges, and their upkeep. They also provide liability insurance. There are no real public shooting ranges, since they must be managed by private clubs in their local areas. For example, MRSA of Great Falls provides facilities for University of Great Falls to do their police training and shooting, and they host two other shooting organizations that do not have facilities of their own. The State Highway Patrol and Cascade County Sheriff's Department both use MRSA facilities at no charge. MRSA Membership dues pay for all insurance and maintenance. MRSA has a five year land permit with Pennsylvania Power and Light, however there is no renewal clause in the contract. MRSA feels it will benefit the entire community if a place is found to move the shooting range to. It is important to include membership clubs who are now providing community service in the funding criteria of this Bill.

Chris Smith, FWP submitted written testimony which he followed in his remarks to the committee **EXHIBIT(fih12a02)**.

Opponents' Testimony:

James Weatherly, Montana Chapter of the Foundation of North American Wild Sheep and Safari Club of North America said they oppose using sheep, goat and moose tags to provide funding to improve and maintain shooting ranges. The Bill does not address how the tags are going to be given out or where the tags can be used. Funding should come from the users of the shooting ranges or with funds generated from a larger percentage of Montana residents. They agree there is a need for permanent funding, but the proceeds from the sale of these special tags should be reserved for improving the habitat and populations of game animals. **EXHIBIT(fih12a03)**.

Bill Orsello, Montana Wildlife Federation states they oppose the Bill due to the funding mechanism. They have a problem with the commercialization of hunting. Putting a monetary value on our wildlife resource is to the detriment of the Montana hunter. If this is done, the value of wildlife will depend on how much money can be derived from it, rather than its esthetic value. This will be the end of public ownership if everything begins to be funded by wildlife.

Kelly Flynn, Montana Outfitter and Guide Association states they have strong support for shooting ranges in Montana, but they question the funding mechanism of HB 258. There are only a

limited number of these permits available. Even though they support shooting ranges, another source of funding is necessary.

Jeff Barber, Montana Wildlife Federation states that while they support funding shooting ranges, they can't support this type of funding. Setting aside these tags is a step toward privatizing Montana's hunting opportunities, and these privileges should not be sold to the highest bidder. He urges that the Bill be amended and another source of funding be found. If necessary, Table it.

Questions from Committee Members and Responses:

REPRESENTATIVE BALYEAT stated that one of the objections to the funding mechanism was if these five sheep licenses were auctioned off, and if all five sheep hunters chose to hunt in the same district, this would have a big impact on the sheep population. If the Bill were amended so that the five sheep licenses were auctioned off and the first bidder got first choice of which district he could hunt, and so on down the line, with the second highest bidder not getting to hunt in the same district as the first highest bidder. Would that alleviate this particular objection? **Jim Weatherly, FNAWS and SCI**, stated no, the biggest objection is the number of tags we are trying to issue, as compared to the total number available. **REPRESENTATIVE BALYEAT** stated another objection was that this would reduce the number of licenses available for the drawing, and all the hunters might use these tags in the same district. If the Bill were amended to, or restricted so that only the highest bidder got first choice and lower bidders did not get to hunt in the same district, would this alleviate that particular concern. **Jim Weatherly** answered that may help as far as decimating the population, but they already have an existing tag that allows whoever buys that tag to hunt in any open district. That already puts a second possible hunter in that district. **REPRESENTATIVE BALYEAT** said, you stated if they were auctioned off to the highest bidder, that the seven year limit would not apply. If the Bill were amended and the seven year provision were added, would that satisfy this concern? **Jim Weatherly** answered that would help, but in the long run it would not maximize the dollar you will generate. **REPRESENTATIVE BALYEAT** said, you stated that your objection was focusing on the big three, and that elk and deer hunters were not contributing. Isn't it true that the Bill does include 30 non-resident elk and deer licenses? **Jim Weatherly** said that is true. He meant to state he is not familiar with the non-resident tags and knowing the history of what those tags sold for. He doesn't know if this would be a substantial source of funds.

REPRESENTATIVE SHOCKLEY stated **REPRESENTATIVE FACEY** had to leave but left questions for him to ask. **REPRESENTATIVE SHOCKLEY**

inquired whether shooting ranges are open to the public.

REPRESENTATIVE VICK deferred to **Gary Marbut**, who stated there is a provision in the law that requires public access to the ranges that are funded in regard to the shooting range development program. One way to satisfy that requirement is if the funded ranges have a day use fee. Another way is if the organization owning and operating the range allows any person to become a member who is eligible to purchase a Montana hunting license and who pays the organization's annual dues and a reasonable share of the organization's cost of doing business. **REPRESENTATIVE SHOCKLEY** asked if someone were shooting only once a year, how much would it cost. **Gary Marbut** gave examples using the Deep Creek Shooting Range west of Missoula, which has been the recipient of funding from this program. They have a day use that allows one day a week for \$5.00 a day. The other is the Deer Creek Range, with current dues of \$40.00 per individual, per year which gives you the combination to a locked gate and you can go in and shoot on any day as much as you want during daylight hours. **REPRESENTATIVE SHOCKLEY** asked, then we won't have a situation where one club gets money from this fund and it is \$1,000.00 a year to belong? **Gary Marbut** said that is correct. Also there is a requirement in the law that clubs funded under the program attempt to have a public site-in day. Some clubs that have not received any funding already do that.

REPRESENTATIVE SHOCKLEY asked how much money they expected to raise in this program and how much is needed each year? **Chris Smith, FWP** answered the biennial appropriation for this past biennium was \$180,000, and prior to that it was \$120,000. All of that funding was expended, but they do not have additional requests. This approach could potentially double the amount of money available, i.e., \$175,000 per year could be available.

REPRESENTATIVE CLARK asked about limited permits being in statutes. How many permits are there now on bighorn sheep, mountain goats and moose that are in statute, meaning that these are the first to go? **Chris Smith**, answered that the only permits that are in statute are the sheep and moose permits that are allocated through the live auction. All other permit numbers are set by FWP. **REPRESENTATIVE CLARK** asked how many permits are there? Are we talking one sheep permit and one moose permit currently that are in statute that are auctioned? **Chris Smith** answered that is correct. **REPRESENTATIVE CLARK** stated his concern being coming from HD 72 that has Big Horn sheep and has a moose permit. How do the provisions that we have down here affect the allocation of permits in our district if there would be a population limitation that comes into play? For example, we have seven permits for Big Horn rams. If there is a statewide epidemic of some sheep disease that cuts the numbers

dramatically, will the numbers be limited by these five that are in statute; i.e., the five in statute would be the first to go, and the remainder would be offered to the general public? Actually it would be six; these five plus the one that is auctioned. **Chris Smith** said that is correct. With the six permits statutorily issued by the commission, they would have to take that into consideration. FWP's intent in administering this would be to limit those permits so there would always be one permit valid in any part of the district. That would reduce to two the number that could be taken. **REPRESENTATIVE CLARK** asked with the 30 general non-resident big game licenses, would any of these come from the number that we have as Outfitter sponsored licenses? Would all of these licenses be those received through the lottery? **Chris Smith** said as he understands the Bill, they would come from the general pool, not from the Outfitter portion.

REPRESENTATIVE RIPLEY asked the cost to develop one shooting range. **Chris Smith** answered that it depends on the size and type of range that was developed. Staff is available with information on the type of grants that have been issued. **REPRESENTATIVE RIPLEY** asked how many could be developed for the \$175,000 that would be raised by this Bill. **Chris Smith** deferred to **Gary Marbut** who answered it depends on what is being done on the range, the size and type of range, and the size of the population it caters to. The average size of the grants is below \$50,000. Shooting ranges can soak up a lot of money, but a lot of good can be done with small pieces of land.

REPRESENTATIVE DEVLIN asked **Clyde Byerly** about the private shooting club he represents and compared it to the Custer Rod and Gun Club in Miles City, which **REPRESENTATIVE DEVLIN** is familiar with. The ground is currently leased, have you placed any improvements on this? **Clyde Byerly** stated they were limited by the terms of the lease to the improvements they made when they initially took possession of the land from the power company. **REPRESENTATIVE DEVLIN** asked if the club had any future plans to own this piece of ground. **Clyde Byerly** stated they would like to, but the ground is under a conservation easement that the power company granted to FWP. The power company is trying to remove the shooting range from that area at the end of the lease, and have encouraged the club to relocate. The club has saved money toward that end. The problem is that there is no land around Great Falls that is priced where anyone could afford to buy it in the quantities that the owners want to sell it. Suitable land comprised a section and a half of land, and the owner did not want to subdivide for shooting range purposes. **REPRESENTATIVE DEVLIN** asked about this private club and if they have received any grant money. **Clyde Byerly** answered they have not received any money in the past. Provisions in this Bill

state the club must own the ground they are situated on, and they were not in that category.

Closing by Sponsor:

REPRESENTATIVE VICK closes by stating that funding is always a problem with every program. As you heard, there is no objection to shooting range grants, just with the funding source. He would like to work with the Committee and members of the groups here today, since it is important that Montanans be able to practice using their firearms in a safe manner.

End Hearing on HB 258.

Please see **Exhibits 6 and 7** under the Hearing on HB 228 for written testimony received opposing HB 258.

HEARING ON HB 228

Sponsor: REPRESENTATIVE DAN FUCHS, HD 15, BILLINGS

Proponents: Chris Smith, Fish, Wildlife and Parks
Mike Whittington, Resident Sportsman
Jeff Barber, Montana Wildlife Federation
Bill Orsello, Self

Opponents: Eric Troth, Big Hole Beaverhead Guides &
Outfitters Association (BBHOGA)
Russ Kipp, BBHOGA
Allen Shallenberg, Self
Frank Stanchfield, BBHOGA
Jean Johnson, Montana Outfitters
Amy Sullivan, Montana Tourism Coalition
Robin Cunningham, Fishing Outfitters of America
Paul Roos, Outfitters
Phil Gonzalez, Fishing Outfitters of America
David Decker, Self
Todd France, Outfitters
Joseph Aanes, BBHOGA
Greg Lilly, BBHOGA
Mack Greenmore, Businessman in Twin Bridges

Opening Statement by Sponsor:

REPRESENTATIVE DAN FUCHS, HD 15, BILLINGS, said the purpose of this Bill is to limit nonresident anglers by creating nonresident trophy trout water angling permits that would be required of a

nonresident who wishes to fish in waters for which a recreational use management plan has been adopted by Fish, Wildlife and Parks.

Proponents' Testimony:

Chris Smith, Fish, Wildlife and Parks, submitted written testimony which he followed in his remarks **EXHIBIT(fih12a04)**. FWP is in favor of this Bill because there is a need to limit angling use based on social issues and the impact of angling on the fishery resource.

Mike Whittington, representing Resident Sportsmen, submitted written testimony **EXHIBIT(fih12a05)** and stated river recreation use conflicts are a growing problem in Montana. Two factors contribute to this problem; an increase in use by nonresident recreationists, and increasing commercialization of state owned public resources, with no mechanism to hold this in check. HB 228 would give FWP a tool to manage this growth in use in much the same way they now manage hunting use.

{Tape : 1; Side : B}

Jeff Barber, MWF, states they support HB 228 and MWF also feels we have to do something. That it is better to act now before the conflicts get worse. FWP predicts a 10% increase per year in nonresident anglers on Montana's most popular rivers. That means it doubles every seven years. It gives FWP the authority to limit management of a river if a management plan is already in place. The conditions FWP must follow are in Section One, Sub Two of the Bill, and nonresident licenses must be allocated by a drawing. Beyond that, FWP has flexibility to tailor the number of licenses depending on individual circumstances in the available waters. This Bill is trying to avoid the crowding that has arisen in many other states. We have to deal with this situation at some point, and we may just as well start now.

Bill Orsello, representing himself, states public ownership of fisheries is a public trust resource, and as a trust, the trustees are the Legislature. We look to the Legislature for the protection of our resource. One of the most important functions of a trustee is to ensure long term use of our fixed assets, our fisheries. The economic impact can't be disallowed, but that is secondary. We have to look at how it impacts both residents and non-residents. This Bill is a mechanism to control growth and manage resources.

Vice Chairman Balyeat read two letters in favor of HB 228 into the record. The first was from the President of the Anaconda

Sportsmen's Club asking for a DO PASS on HB 228 and a DO NOT PASS on HB 258, which we just heard testimony on, **EXHIBIT(fih12a06)**. The second letter was from Tony Schoonen, Secretary-Treasurer of Public Lands Access Association. This letter also supports HB 228 and opposes HB 258, **EXHIBIT(fih12a07)**.

Opponents' Testimony:

Eric Troth, BBHOGA, stated he is very interested in crafting strategies that are effective in dealing with river management solutions. BBHOGA has reservations about HB 228. Further clarification of the documentation is needed; there is a lack of data showing trends. What are the limits on user capacity? For example, information from **Mike Whittington** suggested that on the Beaverhead, that 63.5% of floating on that river was Outfitting in 1999. That is a true survey, taken during a partial period in the summer. What is not pointed out is, this is dealing with floating only. When looked at as a total use of the river, for all the parties going there to wade or to float, that outfitting use in 1999 was 48%. In the study in year 2000, floating use by Outfitters decreased to 46.7%. As a percentage of total use on the river, Outfitter use accounted for 27.7%. When we look at the figures more closely, we find this isn't such a clear cut situation as presented. Our concern is that the facts be accurate. The second aspect, the proposed mechanism for dealing with nonresidents; the proposed drawing. The concern Outfitters have with this is this interjects unpredictability into the way we do business. Outfitters rely very heavily on repeat clientele. Mechanisms by which a drawing is held need to be carefully defined toward achieving management objectives. If the drawing is held in the spring, our clients that book six months to a year in advance don't have the information in sufficient time to plan their trip to Montana. He suggests drawings be a mechanism of last resort. One alternative would be issuing permits to nonresidents, and other management strategies are available also. Outfitters wish to continue to participate in this process in a constructive manner. Outfitters want to 1) protect the health of the resource, 2) promote a quality angling experience, and 3) promote the health of the outfitting industry.

Russ Kipp, BBHOGA, a member of the Beaverhead Advisory Committee, representing local outfitters states the river draft plan proposed by the Advisory Committee had several phases. The freedom of choice phase that is addressed in HB 228 was phase three of the river draft plan. However, it was contingent on phase one being implemented, data being gathered, and a determination being made after two years that phase one failed. At that point, phase two would be implemented for two years, data would be gathered, and at the end of that two years they would

determine that phase two failed. Then phase three would be implemented. It was never intended to be a starting point to address the river management problems. Other strategies developed by the advisory committee need to be tested before this one can be put into place. This takes a comment out of text and changes the whole meaning of where the Advisory Committee was going.

Allen Shallenberger, representing himself, speaks about alternatives to HB 228. There are many rivers and streams in the state that are not of very high quality for trout habitat. **Mike Whittington** spoke about the Missouri being crowded, but the Missouri above Canyon Ferry has very few fisherman, in 1997 about 4,000. The same with the Jefferson, that 84 mile river has about 8,000 fishermen a year and needs to be fixed up. The Beaverhead River is 71 miles long and has very few fishermen below Dillon. If we could have better access and if two creeks on the Bighorn were fixed up, it would double the length of the fishing area and alleviate the crowding. These are the kinds of things that need to be done before we go to a drawing for nonresident permits. A letter to the Committee was entered as **EXHIBIT(fih12a08)**.

Frank Stanchfield, BBHOGA, opposes the Bill because it would have an adverse effect on local economy. There would be no walk-in sales; no one wants to buy a fishing license when they can't go fishing. It would affect tackle, fishing trips and choice of where people want to spend their vacation. He stated that this would cripple one more Montana economy.

Jean Johnson, Montana Outfitters and Guides Association, said that for many years, the theme of a lot of what the Outfitters did has been diversify, diversify, diversify. They moved away from hunting because of the conflicts in the hunting area. Many Outfitters invest their money in summer businesses that include fishing trips, and now, Outfitters are considered the culprits in the crowding situation. In this Bill, only one part of the crowding public is restricted, the nonresidents. There is something slightly askew when we have a bed tax that raises millions of dollars that advertise the recreational opportunities in the State of Montana. The advertising says we want nonresidents to come, but we don't want them to do certain types of activities. We need to decide whether we are going to advertise fishing in Montana or not. This Bill criteria is too loose. How do you define what "social issues" lead to, and why does it lead to this river designation for management and the permitting of nonresidents. FWP already has mechanisms to protect rivers, at least at this point in time. When we get to the point that we need to limit pressures on the rivers, we need to look at limiting resident pressure too.

Amy Sullivan, Montana Tourism Coalition stated that they are here because of the bed tax promotion. Limiting is okay if the resource is being strained and if this has been proven through science. Also, if the limiting is not just based on residents feeling crowded. It should not just be because we don't like nonresidents.

Robin Cunningham, Fishing Outfitters of Montana, stated they echo the concerns of the Outfitters as well as the tourism bureau. This is an okay idea, but it is poorly framed. We have to be careful how this control is achieved, and it needs to have specific scientific criteria. The Bill merely says "documentation of need". From experience on both the Beaverhead and Big Hole Committees, a series of letters could serve as documentation. FOAM is concerned about FWP authority that does not use the complete Montana Administrative Act to enact rules. They can occasionally use an exception that does not include rationale and justification. There is a commercial concern, but it is not the only concern. Without careful control, the nonresident benefits to Montana and the dollars they bring to the state that supports both the fisheries and conservation efforts will be jeopardized. He submitted a written statement which includes Amendments to HB 228 requested by FOAM as **EXHIBIT (fih12a09)**. A chart entitled "Nonresident Angler Dollars from 21 Major Montana Rivers" was submitted, **EXHIBIT (fih12a10)**.

Paul Roos, Outfitter and Educator, stated he feels FWP needs to have the tools to manage the rivers. With this particular tool, however, we will end up with the winners being the people of Montana and the losers being the Outfitters; just the opposite of what we did on the Smith River. More local groups should be empowered to work on recreational plans. This is already being done on the Blackfoot, the Beaverhead, and the Big Hole. The Orvis Company is sponsoring a cooperative fund raising for the Jefferson River. Orvis did that in the early 1990's for the Blackfoot. Almost all those dollars came from out of state, and \$113,000 was received. There is a need to enhance what we have here. A majority of the potential fishing waters in the state are not attracting anyone, but they should be.

Phil Gonzalez, Fishing Outfitters of America stated he has fished the Big Horn River for 30 years and has been able to participate in many of the decisions made. He comments on economic problems. For example, Ft Smith, in the middle of the Crow Indian Reservation with 65% to 70% unemployment on the reservation. All money brought in is by nonresidents. Publicity is negative as well as positive. Hardin is not a place where people will come to vacation. The river has brought dollars that stay in the area. The economic impact of this Bill needs to be looked at.

Nonresident dollars pay for their own entertainment in Montana. The New York Times says that 85% of the population does not hunt or fish. That leaves only 15%; or, 3.9 people per square mile in Montana. This leaves an exclusive country club of individuals who say they can't fish these rivers. The economic value in this is there for everyone and everyone could benefit from it, if it is put in its perspective.

VICE CHAIRMAN BALYEAT reminded everyone that the time for testimony was almost up and asked the remainder of the opponents to come up and briefly state their name for the record.

David Decker, representing himself, his employees, and his neighbors, brought written testimony titled **BBHOGA EXHIBIT (fih12a11)**.

He stated that in Wise River, MT, the opportunities for employment are ranching, bartending, operating the Post Office, working for the Forest Service, Guiding and Outfitting. Legislation like this, which is designed to eliminate Guiding and Outfitting on Montana waterways, is not the way to deal with social conflict prior to its being proven that is the problem. It is hoped that river recreation advisory committees will be given the opportunity with science, data, and good decision making to be allowed to do their job under the Montana Administrative Procedures Act to solve these social issues, when they are accurately identified.

Todd France, Outfitter in Ennis, opposes HB 228, but suggested a solution: sell a limited number of licenses on waters with a crowding problem. He states that we are within a few years of computerized licensing, why not sell a limited number of nonresident licenses on a first come basis for these selected waters on weekends when everyone wants to enjoy our beautiful waters. On crowded waters, this would be fair to Montanans, as well as our invited, nonresident friends.

Joseph Aanes, BBHOGA, states he wants to remind everyone that someday they will put that mine on the edge of the Blackfoot River, and without a broad coalition of opposition, they have a much better chance of getting that mine established with only the people of Montana complaining about it.

Greg Lilly, BBHOGA states he is opposed to HB 228 and presented written testimony **EXHIBIT (fih12a12)**.

Mack Greenmore, Motel Owner in Twin Bridges. Stated he is opposed to HB 228. He asked, what kind of state do we live in that would encourage people to come here, and yet discourage them at the

same time, while restricting one of the largest and cleanest industries the state has.

Questions from Committee Members and Responses:

REPRESENTATIVE CLARK stated, if this Legislation were in effect today, what rivers would be guided by this Legislation? Also in the next three years, what rivers would you propose be guided by this Legislation? **Chris Smith, FWP**, answered there are Bureau of Recreation Plans in effect for both the Beaverhead and Big Hole Rivers, and they are in the process of finalizing for the Blackfoot. Simply adopting a plan would not necessarily impose these nonresident limits. This would just be a first step in developing a plan; part of the plan is in documenting need.

REPRESENTATIVE CLARK stated last session there was an overwhelming movement from the House to restrict nonresident fishermen first. Explain why you think it is necessary to go to "step three". **REPRESENTATIVE FUCHS** states he felt this may be the right Legislation that would continue important dialogue leading to a solution, perhaps a collaborative effort. His intent was to keep a dialogue going.

REPRESENTATIVE GUTSCHE asks whether other states regulate nonresident anglers. Chris Smith answered he is not aware of specific mechanisms that other states use and would defer the question. **Allen Shallenberger** replied US Fish and Wildlife did a nationwide study last year and found that no other state regulates nonresident anglers.

REPRESENTATIVE GUTSCHE states several other ways to do this were brought up; improving water quality and river habitat, etc. Did you consider this. **REPRESENTATIVE FUCHS** responded that was the intent of his bill, to create some dialogue and have opponents offer solutions. He stated he looks at it as a possible solution.

REPRESENTATIVE THOMAS states, can you say what brought about the decline in fishing quality on the Blackfoot? **Paul Roos, Outfitter** said that it was degradation of the tributaries due to a variety of man caused activity, not to exclude recreation. But, it was primarily mining, road building, overgrazing, and irrigation projects that are not fish friendly. **REPRESENTATIVE THOMAS** asked whether forest fires had anything to do with that? **Paul Roos** replied he did not think so, and it has been his observation that the exact opposite has been true.

REPRESENTATIVE RIPLEY stated several people alluded to concerns about New Section One, Line 27, and asked for a definition of social issues and what are the conflicts, other than

overcrowding. **Chris Smith FWP** stated that having the opportunity to fish in an area where you don't feel crowded is the primary social issue. **REPRESENTATIVE RIPLEY** said then maybe it should say "overcrowding", rather than "social issues" in the Bill.

VICE CHAIRMAN BALYEAT stated there was earlier testimony alluding to 10% increase in outfitting activity, and obviously if it kept increasing it would have to be regulated. Doesn't the free market make this self-regulating? Does a particular fishery reach a saturation point at which Outfitters start avoiding using it, or can't sell a particular trip on that fishery because of overcrowding. **Robin Cunningham, FOAM** replied that is a correct characterization. To clarify, the 10% growth was attributed to nonresidents, not necessarily to outfitters. It is self regulating, other ways to deal with this would be to go earlier or later in the season, and to go to other areas on the same river that are not so crowded.

Closing by Sponsor:

REPRESENTATIVE FUCHS stated that both sides have presented good points. This is a difficult issue, and is one of the problems we will continue to face until we come up with the right solution. Many of us don't have this problem because we work around it and don't go to places where there are a lot of people, as mentioned in other testimony. This issue goes along the growth in our tourism industry, and will lead to another difficult decision that everyone should consider when it comes to a sales tax; i.e., if the second leading industry is tourism, we have to look at that as part of our tax reform.

Greg Herbert, owner of Montana Waters Fishing Guides in Dillon, presented written testimony opposing HB 228 and asked that copies be made available to the committee, **EXHIBIT(fih12a13)**.

Correspondence opposing HB 228 and being made a part of the record was submitted as follows:

Joe Dilschneider of Ennis, EXHIBIT(fih12a14)
Jim Hawthorne of Twin Bridges, EXHIBIT(fih12a15)
Bob Walker of Ennis, EXHIBIT(fih12a16)
Eric Shores of McAllister, EXHIBIT(fih12a17)
Theresa Stack of Sheridan, EXHIBIT(fih12a18)
Jack Mauer of Victor, EXHIBIT(fih12a19)
John Herzer of Missoula, EXHIBIT(fih12a20)
Mike Hillygus of Missoula, EXHIBIT(fih12a21)
Paul Moseley of Alder, EXHIBIT(fih12a22)
Gregory Mentzer of Craig, EXHIBIT(fih12a23)
Carrie Perry of Missoula, EXHIBIT(fih12a24)

Lawrence Eaton of Ennis, **EXHIBIT**(fih12a25)
Greg Lilly of Harrison, **EXHIBIT**(fih12a26)
Michael Mastrangelo of Fort Smith, **EXHIBIT**(fih12a27)
Todd France, no address, **EXHIBIT**(fih12a28)
Scott Barber, Twin Bridges, **EXHIBIT**(fih12a29)
Dan and Marsha Greemore of Twin Bridges, **EXHIBIT**(fih12a30)
Matthew Greemore of Twin Bridges **EXHIBIT**(fih12a31)
Trapper Badovinac of Helena **EXHIBIT**(fih12a32)

Closed Hearing on HB 228.

HEARING ON HB 264

Sponsor: REPRESENTATIVE DAVE LEWIS, HD 255, HELENA

Proponents: Gary Marbut, Montana Shooting Sports Association
and Western Montana Fish and Game Association
Bob Gilbert, Walleyes Unlimited
Chris Smith, Fish, Wildlife and Parks
John Wilson, Montana Trout Unlimited
Jeff Barber, Montana Wildlife Federation
Walt Tuemmler, Montana Trapper's Association
Kelly Flynn, Montana Outfitters and Guides
Edward Hebbe III, Montana Trapper's Association
James Weatherly, Foundation for North American
Wild Sheep and Safari Club of North America

Opponents: Janet Ellis, Montana Audubon Society

Opening Statement by Sponsor:

REPRESENTATIVE DAVE LEWIS, HD 255, HELENA explained that HB 264 is to preserve the heritage of Montana citizens to harvest wild game and wild fish. This Bill is similar to one passed in North Dakota declaring that hunting, fishing and trapping are part of their heritage that must forever be preserved for the people. The purpose of HB 264 is to avoid possible future Animal Rights Activist issues. The Legislatures of Minnesota, Virginia and Alabama have passed similar bills. To avoid the game farm issue, the term "wild" was used in the Bill's language.

Proponents' Testimony:

Gary Marbut, Montana Shooting Sports Association and Western Montana Fish and Game Association and Big Sky Practical Shooting Club, stated he is in favor of HB 264 and likes the language of it. It is important to protect property rights. Animal Rights

Activists have declared that their favorite method for getting rid of hunting is predators. They want to get enough predators in the woods so game populations will be the same as they were when Lewis and Clark came through; before sportsmen started paying for game management. Then there will no longer be a need for hunting. We are concerned that the right to hunt should be a right of the citizens of the state, and not a right of the four-legged predators. Montana Shooting Sports Association has an Amendment to HB 264, submitted to the committee as

EXHIBIT(fih12a33).

{Tape : 2; Side :A}

Bob Gilbert, Walleyes Unlimited, states it is a good idea to preserve the rights of the people of Montana. Walleyes Unlimited would like to see this Bill passed.

Chris Smith, FWP, submitted written testimony **EXHIBIT(fih12a34),** which he followed in his remarks. He states they do support this Bill. There is a difference in the language of this Bill from the constitutional initiative on this issue that was discussed several years ago. This language does not create the problems in respect to establishing stated rights, particularly in regard to nonresidents. Regarding wild fish; to some people that means fish naturally produced in streams, as opposed to hatchery fish. We might want to remove the word "wild" as a modifier to the word fish.

EXHIBIT(fih12a35) EXHIBIT(fih12a36)

John Wilson, Montana Trout Unlimited, states they support the Bill and like FWP's suggestion about putting a conservation caveat in, as that strengthens the Bill.

Jeff Barber, Montana Wildlife Federation, states MWF's mission is to protect Montana's outdoor heritage and this Bill hit that mission head on. However, the language in Section One, Sub Two, is a problem, and FWP's suggested Amendment is a start. "The state shall manage fish and wildlife to preserve opportunities for the harvest of wild fish and wild game". What that means to me is we are tying the department's hands to scientifically manage wildlife for the benefit of wild fish and wild animals. What would that mean on bear, for example, since bear eat fish? Do the fish or the bear get precedence; how does this work? The language read from North Dakota seems to be shorter and simpler, where we just stick to the right to hunt and fish, and not muck it up with the management. Suggested language; "the state shall manage wild fish and wild game animals to preserve recreational opportunities for the citizens of this state". Something like that might work better, so we aren't managing every species in the state, for the benefit simply of harvesting wild game and

wild fish. With that caveat, MWF strongly supports the Bill, especially Section One, and hopes the committee can fix Sub-section Two of Section One so they can give their unqualified support.

Walt Tuemmler, states that his wife is President of Montana Trapper's Association and had another meeting so couldn't be here. He stated they have always wanted a constitutional initiative to protect our heritage, and thanks the sponsor for included Trapping in that heritage. Basically they support HB 264, and the only problem with the Bill was language.

Kelly Flynn, Montana Outfitters and Guides, stated they approve an initiative supporting the right to hunt and fish in Montana. They are concerned about clients coming to Montana with the proper licenses, and want to ensure that they also have that right to hunt and fish. MOG suggests an Amendment for clarification. Add: "And citizens of other states or countries, provided they have obtained a legal hunting or fishing license from the state of Montana for the licensing year".

Chairman Fuchs stated the twenty minute limit for Proponents has been reached. Further proponents may come up and state their name for the record.

Edward Hebbe III, Montana Trapper's Association, stated he is a proponent.

James Weatherly, Foundation for North American Wild Sheep and Safari Club of North America, stated he is a proponent.

Opponents' Testimony:

Janet Ellis, Montana Audubon, stated they have no problem with Section One. However there is a problem with Sub Section Two that reads "all fish and wildlife (and wildlife does include wild game) will have to be managed to preserve opportunities to harvest game animals". Our concern is the emphasis on "game". In Montana, there are 33 reptiles and amphibians; 107 mammals including 94 that are not considered game animals, those mammals include predators, non-game fur bearers and endangered species. There are 401 birds, 350 of which are non- game birds or endangered species. I'm not sure landowners would want all wildlife to be managed just for the preservation of game animals. It could be pushed so that they are just managing game animals, and that is our concern.

No further Opponents.

Questions from Committee Members and Responses:

REPRESENTATIVE BALLYEAT states that today there have been three Amendments suggested; from FWP, Audubon, and the Outfitters. Do you support any of those? **Doug Marbut** replied, No, the Outfitters suggestion is unnecessary, that issue has been litigated, and there is no issue with nonresidents. They will be able to continue to hunt under the language of this Bill. On the Audubon Society comments, this is currently placed in Article 9, Environment and Natural Resources. That is the tone of their comment, that this should be used to ensure the longevity of wildlife resources in Montana. That is not our intent with this Bill, our intent is to establish the individual right of the taking of wildlife as our hunting heritage. On the FWP Amendment, that language would eventually be construed as offering additional authority to FWP, and that also is not part of what we are creating, it is an exercise empowering individual Montanans to continue the heritage we have enjoyed.

REPRESENTATIVE BALLYEAT asks the same questions of the sponsor.

REPRESENTATIVE LEWIS states he feels the Committee has more expertise than he has and leaves it up to the Committee to determine if these suggestions are meritorious and he looks forward to Committee deliberations.

CHAIRMAN FUCHS confirms that this would be left to the discretion of the Committee and states he appreciates the level of trust and the vote of confidence.

Closing by Sponsor:

REPRESENTATIVE LEWIS said he feels strongly that there is a need for this type of Legislation and wants his grandchildren to have the same opportunity to hunt and fish in Montana that he has had.

End Testimony on HB 264.

ADJOURNMENT

Adjournment: 6:10 P.M.

REP. DANIEL FUCHS, Chairman

LINDA KEIM, Secretary

DF/LK

EXHIBIT (fih12aad)